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Mailed: May 18, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Blunt Wrap U.S.A., Inc.

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Serial No. 76384885

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Brett A. North of Garvey, Smith, Nehrbass & Doody for applicant.

Marc Leipzig, Trademark Examining Attorney, Law Office 115 (Tomas V. Vlcek, Managing Attorney).

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Before Quinn, Walters and Bottorff, Administrative Trademark Judges.

Opinion by Quinn, Administrative Trademark Judge:

An application was filed by Blunt Wrap U.S.A., Inc. to register the mark BLUNT MASTER for "clothing, namely, hats, shirts and jackets."[1]

The trademark examining attorney refused registration under Section 2(d) of the Trademark Act on the ground that applicant's mark, if applied to applicant's goods, would so

[1] Application Serial No. 76384885, filed March 20, 2002, alleging a bona fide intention to use the mark in commerce.

resemble the previously registered mark BLUNT for "clothing, namely, coats, dresses, footwear, shirts, sweaters, shorts, pants, jackets, underwear, and headwear"[2] as to be likely to cause confusion.

When the refusal was made final, applicant appealed. Applicant and the examining attorney filed briefs. An oral hearing was not requested.

Applicant argues that the marks have different overall commercial impressions. More specifically, applicant contends that the marks are different in sound, that the MASTER portion of its mark is prominent, and that the examining attorney must not dissect applicant's mark in analyzing the likelihood of confusion with the cited mark.

The examining attorney maintains that the marks are similar in sound, appearance and commercial impression, and that the goods are identical in part, and are otherwise closely related.

Our determination under Section 2(d) is based on an analysis of all of the facts in evidence that are relevant to the factors bearing on the likelihood of confusion issue. In re E. I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). In any likelihood of

[2] Registration No. 1,816,941, issued January 18, 1994; renewal pending.

confusion analysis, two key considerations are the similarities between the marks and the similarities between the goods. Federated Foods, Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 192 USPQ 24 (CCPA 1976).

We first turn to consider the goods. During the prosecution of its application, including the appeal brief, applicant was completely silent as to this duPont factor. We acknowledge that there is no per se rule governing likelihood of confusion in cases involving clothing items. In re British Bulldog, Ltd., 224 USPQ 854 (TTAB 1984). Nevertheless, in the present case, applicant's goods are identical to registrant's goods, at least in part inasmuch as all of applicant's goods are also listed in the cited registration; the involved application and registration both list shirts, jackets and headwear (hats). Further, the goods in the application are closely related to the additional clothing items listed in the cited registration. The goods are presumed to move through the same channels of trade and are bought by the same classes of purchasers.

Insofar as the marks are concerned, we initially note that when marks are applied to identical goods, as is the case here (at least in part), "the degree of similarity [between the marks] necessary to support a conclusion of likely confusion declines." Century 21 Real Estate Corp.

v. Century Life of America, 970 F.2d 874, 23 USPQ2d 1698, 1700 (Fed. Cir. 1992). Applicant's mark BLUNT MASTER is similar in sound and appearance to registrant's mark BLUNT. The first term in applicant's mark is identical to the entirety of registrant's mark; it is often the first part of a mark which is most likely to be impressed upon the mind of a consumer and remembered when making a purchasing decision. Presto Products v. Nice-Pak Products, Inc., 9 USPQ2d 1895 (TTAB 1988).

As to meaning, applicant states that the marks convey entirely different meanings. What is interesting to note, however, is that applicant fails to indicate what those different meanings are. The term "blunt" would appear to be arbitrary as applied to clothing items, and it is likely that the marks convey similar connotations to consumers. Further, the record is devoid of evidence of any third-party uses or registrations of the same or similar marks in the clothing field.

We thus conclude that the marks BLUNT and BLUNT MASTER, as applied to identical or closely related clothing items, are similar in overall commercial impression. See: Coca-Cola Bottling Co. v. Joseph E. Seagram & Sons, Inc., 526 F.2d 556, 188 USPQ 105 (CCPA 1975) [the mere addition of a term to a registered mark is generally not sufficient

to overcome a likelihood of confusion; BENGAL and BENGAL LANCER are confusingly similar]. In finding that the marks are similar, we have kept in mind the normal fallibility of human memory over time and the fact that consumers retain a general rather than a specific impression of trademarks encountered in the marketplace.

We conclude that consumers familiar with registrant's clothing items, namely, coats, dresses, footwear, shirts, sweaters, shorts, pants, jackets, underwear and headwear sold under the mark BLUNT, would be likely to believe, if they were to encounter applicant's mark BLUNT MASTER for clothing, namely, hats, shirts and jackets, that the goods originated with or are somehow associated with or sponsored by the same entity.

Decision: The refusal to register is affirmed.